

Welcome to the Commonwealth of Massachusetts Special Reports Web Site. This Special Commission Report, prepared by the Special Commission Relative to Liquefied Natural Gas Facility Siting and Use, is the result of months of hearings, meetings, research and diligent work by Special Commission members and energy advisors.

The Special Commission would like to thank all of its members as well as its advisors, Sue Tierney, Ph.D., energy expert for Analysis Group, and Henry Lee, Lecturer in Public Policy, for their participation and involvement in this process.

This Special Commission Report answers the resolve provided for in Chapter 1 of the Resolves of 2006, in which the Massachusetts Legislature requested an investigation and study relative to liquefied natural gas facility siting and use. This Report addresses a variety of important issues, including the need for liquefied natural gas in the state, public safety concerns related to siting such facilities, and environmental impacts of liquefied natural gas facility siting and use. The Report also provides recommendations to various state agencies suggesting how they may coordinate their efforts to most effectively meet the needs of the state.

It is the sincere hope of the Special Commission that the state benefit from the findings and recommendations of this Report, and utilize the recommendations herein to facilitate the state's future energy needs.

Brian S. Dempsey, Chairman

Joan M. Menard, Chairman

# **Special Commission Relative to Liquefied Natural Gas Facility Siting and Use**

## **Chairmen**

**Representative Brian S. Dempsey  
and  
Senator Joan M. Menard**

## **Commission Members**

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Judith Judson, Chairman, Department of Telecommunications and Energy  
Robert Keating, Commissioner, Department of Telecommunications and Energy  
Alice Moore, Representative of Attorney General's Office  
David O'Connor, Commissioner Division of Energy Resources

## **Charge of the Commission**

As set out in Chapter 1 of the Resolves of 2006, there shall be a Special Commission to make an investigation and study of the siting and use of liquefied natural gas facilities in the Commonwealth. The Commission's study shall include analysis of the projected increase in natural gas supply needs of the Commonwealth related to energy generation, heating and related public safety and security issues. The Commission shall consider the need for additional liquefied natural gas import facilities in the Commonwealth, the economic, public safety, and environmental impacts of siting liquefied natural gas import facilities in the Commonwealth, the respective roles of federal, state and local governments in the siting process, and the effects of any land takings or transfers that might be proposed with siting a liquefied natural gas import facility. The Commission shall also make recommendations about what restrictions, if any, should be implemented by the Federal Aviation Administration for any proposal within close proximity to Logan Airport, and about the appropriateness of siting liquefied natural gas import facilities in close proximity to areas with high population density.

## Recommendations of the Commission

### A. Increased Supply Needs

The past decade has seen a dramatic rise in the use of natural gas. Natural gas has become the fuel of choice for heating homes and buildings, as well as for powering almost all of the new electric generating plants built in the region in recent years. This shift in fuel choice is in large part a result of the fact that natural gas has environmental advantages over other fossil fuels and is available for a relatively lower cost than other fuels. Despite the recent increase in natural gas prices, demand for gas is expected to continue to grow in the coming years.<sup>1</sup>

The power generation sector has followed this trend toward increased natural gas usage in recent years due to an influx of gas-fired power plants being built over the past decade. Nearly every power plant built in the past ten years has been gas-fired, and current reports indicate that 42 percent of the region's electricity supply is fueled by natural gas.<sup>2</sup> Of particular concern to the Commission is that fact that the use of gas during the peak winter months has been rising steadily.<sup>3</sup> In 2005, 2.3 million customers in the region used natural gas.<sup>4</sup> Currently, residential and commercial customers use approximately 40 percent of the natural gas supply, industrial customers 17 percent, and power generators 43 percent. However, on peak winter days when the temperatures are the coldest, 77-79 percent of demand for natural gas is consumed by residential and commercial customers, leaving only a mere 20-22 percent for power generation.<sup>5</sup> As power generators in the region increase their use of natural gas, these alarming statistics indicate that the need for natural gas, especially during peak days will continue to expand.

It is evident that new gas supplies are needed to meet demand growth.<sup>6</sup> Reports indicate that this new gas supply will be needed as early as 2007 and as late as 2010, in order to meet the region's demand.<sup>7</sup> Therefore, in order to meet the state's natural gas demands, additional import and storage facilities are required, as well as more delivery capacity (pipeline expansion).

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<sup>1</sup> Susan Tierney, "Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use," June 2006, page 3.

<sup>2</sup> This represents the percentage of total generation produced by gas-fired and gas/oil-fired plants in New England in 2005. See ISO-New England, "2005 Annual Markets Report," June 1, 2006, page 29.

<sup>3</sup> In a new forecast, the Energy Information Administration ("EIA") forecasts that after a relatively short term dip in energy use in response to the post-Hurricane price levels, gas demand is forecast to grow in New England. James Kendall, EIA, "Natural Gas Outlook," Presentation at the DOE National LNG Forum (Boston), March 10, 2006.

<sup>4</sup> Power Planning Committee, NEGC, "Meeting New England's Future Natural Gas Demands: Nine Scenarios and Their Impacts," *A Report to the New England Governors*, March 1, 2005, page 9.

<sup>5</sup> Id., page 20, based on review of forecasts prepared by EIA, ISO-New England, the Regional Greenhouse Gas Initiative, and Energy & Environmental Analysis.

<sup>6</sup> Susan Tierney, "Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use," June 2006, page 3.

<sup>7</sup> Carl Gustin, New England Energy Alliance, presentation to the LNG Commission, May 22, 2006; see also Susan F. Tierney and Paul J. Hibbard, "New England Energy Infrastructure-Adequacy Assessment and Policy Review," Report prepared for the New England Energy Alliance, November 2005, page 24.

## **1. Import Facility/Storage**

New England's gas supply depends heavily on resources piped in from distant locations in North America. Massachusetts in particular, obtains most of its gas from sources in the Gulf Region, other parts of the southwestern United States, and Western Canada. However, the supply needs of the Commonwealth require both pipeline deliveries and the ready access provided through LNG import facilities and storage.

“Stored natural gas is a critical economic and engineering component of the region's natural gas delivery system. Were it not for gas storage, our economy would be constrained by the willingness of the market to invest in expansion of pipeline capacity to meet both long-term demand growth and day-to-day demand fluctuations. Thus, natural gas storage bolsters system reliability by allowing for an economic means to meet winter peak demand requirements by maintaining vital pressure in the pipeline system.”<sup>8</sup>

Natural gas storage contributes to the diversity of the regional gas supply portfolio and reduces the state's reliance on the availability and price-competitiveness of any individual supply source.<sup>9</sup> Reports indicate that currently 10 percent of New England's natural gas needs on peak winter days are met by direct infusion from LNG storage throughout the region.<sup>10</sup> That means that on the coldest days the state is using all the currently available natural gas from the pipeline and yet is still forced to seek the additional 10 percent of the demand it requires from its storage. This is important, because it highlights exactly why additional LNG storage located in the state is vital to meet our demand. It is important to site LNG within this region as compared to outside the region, largely because the further away the LNG import facility is located relative to the Massachusetts market, the higher the incremental gas transportation costs. Taking into account transmission costs as well as the necessity for storage during peak usage, it is clear that LNG import facilities with natural gas storage are a critical component of Massachusetts' energy supply.

## **2. Pipeline**

The cost and availability on demand of LNG increases with the cost of transportation and a LNG import facility that is located further away means that it will take longer to transport the supply through new pipeline capacity. Additionally, there are reliability benefits that come from injecting the new supplies more directly into the local gas system. Furthermore, adding a LNG terminal closer to Massachusetts or increasing pipeline capacity may better allow the state to compete with other markets around the world to attract the LNG supplies to its shores.

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<sup>8</sup> Power Planning Committee, NEGC, “Meeting New England's Future Natural Gas Demands: Nine Scenarios and Their Impacts,” *A Report to the New England Governors*, March 1, 2005, page 5.

<sup>9</sup> Id.

<sup>10</sup> Id.

Therefore, given the time necessary to permit, finance, and construct facilities, the region needs to act now to assure adequate gas supplies in the future.

### **Recommendation**

**The Commission finds that because the energy supply of New England as a region, and Massachusetts in particular, is dependant upon natural gas, and that our ability to obtain adequate supply is crucial to meet our increasing energy demands and to moderate price volatility, that the Commonwealth, through legislation and regulation, should facilitate siting new natural gas infrastructure and import facilities in close proximity to the Commonwealth, provided that appropriate measures are adopted to facilitate the responsible siting of LNG import facilities and pipeline expansion capability within the Commonwealth, to the extent that such development is necessary to assure our energy security.**

#### **B. Public Safety**

Although siting LNG facilities in Massachusetts provides the state with increased energy supply, it also creates public safety concerns. The technical features that give rise to public safety concerns are relatively well understood among the scientific community, the LNG industry, and safety regulators. Like other fuels (including gasoline, fuel oil, and liquid propane), natural gas can burn at certain temperatures.<sup>11</sup> As a result, the natural gas industry has designed facilities and operating procedures to minimize the potential dangers associated with potential public safety risks.

Due to the technical properties of LNG and the necessity to safely contain the liquid fuel, the industry and its regulators have maintained strict safety standards, techniques, procedures and systems.<sup>12</sup> These efforts have given the LNG industry an excellent safety record, especially when compared to refineries and other petrochemical plants. Worldwide, there are 17 LNG export (liquefaction) terminals, 40 import (regasification) terminals, and 136 LNG ships, altogether handling approximately 120 million metric tons of LNG every year.<sup>13</sup>

Despite the excellent safety record associated with transport and storage of LNG, there is strong concern, especially in wake of the attacks of September 11<sup>th</sup> that LNG import facilities might pose as targets of potential terrorist activity. While the probability of a terrorist attack cannot be accurately measured, it is nonetheless a foreseeable risk.<sup>14</sup> Experts agree that the

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<sup>11</sup> As a liquid, LNG is not explosive. LNG vapor is only explosive if within the flammable range of 5 percent-15 percent when mixed with air.

<sup>12</sup> Captain Mary Landry, Chief, Marine Safety Division, First U.S. Coast Guard District, "LNG Safety and Security" A Local Federal Maritime Security Coordinator's Perspective," in the Coast Guard Journal of Safety at Sea: Proceedings of the Marine Safety and Security Council, Fall 2005, pages 83-96. Since September 11<sup>th</sup>, these security measures have been increased for both existing facilities and as part of the approval of new or expanded facilities.

<sup>13</sup> <https://www.ferc.gov/industries/lng/safety/safety-record.asp> 6/2/2006, as cited by Susan Tierney, "Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use," June 2006, page 3.

<sup>14</sup> Richard Clark, et. al., "LNG Facilities in Urban Areas: A Security Risk Management Analysis for Attorney General Patrick Lynch Rhode Island," May 2005, pages 3-10.

relative attractiveness of a LNG facility as a terrorist target may depend upon its proximity to large urban populations. Though more densely populated areas are at greater risk for potential terrorist activity, security experts believe that any potential terrorist threat to a LNG import facility is relatively low, largely because there are more attractive targets available.<sup>15</sup>

The public safety risks associated with potential attacks on a LNG facility depend largely upon the design components of the facilities (including terminals and tankers); the characteristics of the LNG site itself (including neighboring facilities and infrastructure or capacity of local emergency response on both land and in marine environments); the regional risks and conditions associated with the area; and how risks are communicated.<sup>16</sup>

A recent study prepared by scientists at Sandia National Laboratories serves as the most thorough review of existing studies related to the safety consequences of a LNG spill, and the report provides guidance to those seeking to address relevant public safety concerns related to LNG. The key conclusions and recommendations made by the report include the finding that:

“risks from accidental spills are small and manageable with current safety policies and practices,...planning, prevention and mitigation can diminish the risks from intentional events,...and large, unignited vapor releases from LNG breaches are unlikely, though vapor clouds could extend over 1600 meters if they do occur...”<sup>17</sup>

The report has further established that security and technological improvements can reduce the already small and manageable risks resulting from accidental spills and intentional attacks. Furthermore, recent studies of risks associated with LNG facilities indicate that the industry’s use of technologies, including the use of double-hulled ships, harbor escorts and enforcement of safety and security zones around LNG facilities, have all contributed to the strong safety record associated with LNG facilities.<sup>18</sup> As a result, experts agree that the potential risk of a LNG facility safety breach is relatively small.<sup>19</sup>

## Recommendations

**Based on these findings, the Commission recommends that given the security and safety concerns associated with siting a LNG import facility, if it is determined that any such import facility should be located within the Commonwealth, such facility should be located in such a manner as to reduce, to the greatest extent possible, the security and safety concerns associated with such facilities.**

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<sup>15</sup> Verbal comments of James Woolsey, former Director of the Central Intelligence Agency, at the LNG Forum sponsored by the National Commission on Energy, Washington, D.C., June 21, 2006.

<sup>16</sup> Presentation of the National Association of State Fire Marshals, DOE National LNG Forum, March 10, 2006.

<sup>17</sup> Mike Hightower, et. al., Sandia National Laboratories, “Report on Liquefied Natural Gas (LNG) Infrastructure Security: Background and Issues for Congress,” September 9, 2003.

<sup>18</sup> Susan Tierney, “Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use,” June 2006, page 5.

<sup>19</sup> Comments of Dr. Mike Hightower, at the LNG Forum, National Commission on Energy Policy, Washington, D.C., June 21, 2006.

**The Commission recommends therefore, that it shall be the preference of the Commonwealth that any new LNG import facility should be sited outside any densely populated area, in a maritime environment that provides appropriate access for waterway tanker transit and that is located within the proximity of a pipeline or that would require minimal pipeline interconnection. In addition, if it is determined that there are any existing LNG import facilities that do not meet the safety standards as outlined by the Commission, it shall be the preference of the Commonwealth that the federal and state agencies that regulate LNG, immediately initiate a process to recommend alternative LNG import proposals that may lessen the state's dependency on such facilities.**

**The Commission further recommends that public officials at the federal, state and local level should develop a LNG risk management plan on behalf of the Commonwealth which will guide future siting decisions. Such a plan should determine the safety and security measures that would be required of any new or existing facility. The plan shall include, but shall not be limited to: (1) the safety and security standards that all facilities should meet and the upgrades, if any, required to ensure to the maximum extent possible, the safety of surrounding population centers; (2) the response capability standards that should apply to a host community; (3) the costs of safety and security capability enhancements and a recommendation of how the financial impact of such enhancements will be allocated; and (4) the economic, societal and environmental impact in the event of an incident and the cost associated with restoring essential services and infrastructure following any type of incident. The Commission further recommends that the state should consider within a risk-management plan the potential benefits of requiring that licensed officer positions onboard a LNG tanker making port within the boundaries of the Commonwealth be fully licensed and certified by the United States Coast Guard.**

**The Commission further recommends that the siting authorities should give public safety concerns significant deference when making decisions relative to siting LNG infrastructure and import facilities.**

### **C. Environmental Impact**

The site-specific characteristics of LNG projects determine their impacts on the environment and local communities. Facilities proposed in off-shore areas may impact the marine environment and the shipping, boating, and other water dependent uses that are completely different from environmental and community impacts of a LNG facility proposed on-shore. All new LNG import facility proposals undergo an extensive environmental review process.

Despite the fact that the current siting process considers the environmental review of a potential site, experts agree that states should also take an active role in promoting energy efficiency and provide incentives for the development of environmentally sound projects. The New England Governors' Conference analyzed and explored the tradeoffs of various approaches to solving the region's natural gas needs and they agreed that one approach that should be



increased is the use of energy efficient policies and renewable energies.<sup>20</sup> Many experts agree that more aggressive end-use efficiency improvements would directly help to curb the growing demand for electricity and natural gas in the region.<sup>21</sup> Further, in order to meet the region's supply needs and moderate the volatility of natural gas prices, states should avoid relying on only one solution to their energy problems, and instead adopt more energy efficiency programs in conjunction with increased natural gas infrastructure development.<sup>22</sup>

## **Recommendations**

**The Commission recommends that because a diverse energy portfolio is vital in order to meet the state's energy demands and to protect the environment, the Commonwealth should establish a plan to aggressively promote energy efficiency and demand-reduction to reduce demand by state-owned properties and for commercial and industrial and residential customers, with a timetable and specific efficiency and reduction goals. Further, the Commission recommends that the Commonwealth advance policies that encourage the development and use of renewable energy sources throughout the Commonwealth in order to help offset the increasing demand for energy derived from fossil fuels.**

### **D. Respective Role of State, Local, and Federal Governments**

#### **1. On-Shore Sites**

##### **(a) Role of the Federal Government**

After many years of debate about the boundaries and extent of federal and state jurisdiction as it relates to LNG siting, the Energy Policy Act ("EPACT") was enacted in 2005, and included provisions that clarified the roles of various federal government agencies and state governments in the processes for siting LNG facilities.<sup>23</sup> Many legal observers have suggested that the EPACT confirmed and expanded upon the exclusive authority of the Federal Energy Regulatory Commission ("FERC") over the siting, construction, and operation of LNG import terminals located on-shore and in-state waters. The EPACT clarified that the FERC is the primary authority that reviews LNG terminals.<sup>24</sup> Specifically, Section (2)(e)(1) of the EPACT

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<sup>20</sup> Power Planning Committee of the New England Governors' Conference, Inc., "Meeting New England's Future Natural Gas Demands: Nine Scenarios and Their Impacts," A Report to the New England Governors, March 1, 2005.

<sup>21</sup> Northeast Energy Efficiency Partnership, "Economically Achievable Energy Efficiency Potential in New England," Spring 2005.

<sup>22</sup> Susan Tierney and Paul Hibbard, "New England Energy Infrastructure-Adequacy Assessment and Policy Review," Report prepared for the New England Energy Alliance, November, 2005.

<sup>23</sup> Susan Tierney, "Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use," June 2006, page 70.

<sup>24</sup> The EPACT defines "LNG terminal" as including "all natural gas facilities located onshore or in state waters that are used to receive, unload, load, store, transport, gasify, liquefy or process natural gas that is imported into the United States from a foreign country, exported to a foreign country or transported in interstate commerce by a waterborne vessel." Skadden, Arps, Slate, Meagher & Flom LLP, "Analysis of the Energy Policy Act of 2005," August 2005.

states, “the Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion or operation of a LNG terminal.”<sup>25</sup>

In highlighting the dominant role of the FERC in the process for siting these on-shore LNG proposals, the EPACT designates that the FERC serves as the lead agency in preparing federal environmental impact statements under the National Environmental Policy Act and in coordinating with other agencies as they carry out their own authority in reviewing projects.<sup>26</sup> Thus, this authority allows the FERC to establish schedules for other federal agencies and states, to carry out their reviews, and gives teeth to those schedules by authorizing project applicants to petition the court to compel agencies’ adherence to such schedules.<sup>27</sup>

### **(b) Role of the State Government**

While the EPACT and other federal statutes retain some role for states in the LNG permitting process, a state’s role in most cases is limited to the issuance of siting permits and providing input on the locations of potential sites. LNG terminal applicants are encouraged to cooperate with state and local officials. With regard to permitting, the EPACT specifically lays out the fact that states are delegated their powers under the following federal statutes: The Clean Air Act, The Clean Water Act, and The Coastal Zone Management Act. However, while the EPACT gives states the right to stop or modify a proposed project through the denial or issuance of approvals under these federal acts, a state’s authority under the Coastal Zone Management Act, Clean Air Act and Clean Water Act is not open ended.<sup>28</sup>

With respect to providing input on proposed LNG sites, the governor of the state in which the LNG terminal is proposed is assigned with the task of designating the appropriate state agency for the purposes of consulting with the FERC regarding an application and any safety concerns.<sup>29</sup> Any state and local safety concern may be raised in comments filed in a timely manner<sup>30</sup> with the FERC, and according to the EPACT must be reviewed and responded to by the FERC before it issues its findings on any proposed project site. Potential state and local safety considerations that should be raised in this process are concerns related to: (1) existing and projected population and demographics near the proposed facility, (2) the natural and physical

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<sup>25</sup> Patrick Hester, “Regulation of the Development of Natural Gas Pipelines and LNG Facilities: An Overview,” Presentation to Law Seminars International, “Electricity & Natural Gas Regulation: Fundamentals & Current Issues,” Washington, D.C., March 17, 2006.

<sup>26</sup> Susan Tierney, “Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use,” June 2006, page 71.

<sup>27</sup> Id.

<sup>28</sup> See FERC website: <https://www.ferc.gov/industries/lng/gen-info/laws-regs.asp>. For example, under federal law, a state may determine whether a proposed project located in the coastal zone is consistent with a state’s existing Coastal Zone Management Plan; however, any objections a state may have to a plan must be filed with FERC (the federal permitting agency), within 6 months of receipt of the applicant’s certificate; and if no such objections are filed, the state’s concurrence with the certificate is presumed. Any appeals related to these objections can take place within an expedited appeals process established under the EPACT legislation.

<sup>29</sup> State and local safety concerns include but are not limited to: the kind and use of the facility; the existing and projected population and demographic characteristics of the location; the existing and proposed use near the location; the natural and physical aspects of the location; the emergency response capabilities near the facility location; and the need to encourage remote siting.

<sup>30</sup> Timely manner = 30 days.

aspects of the area, (3) the emergency response capabilities in the area, and (4) the need to encourage remote siting.<sup>31</sup>

Although the EPACT attempted to clarify the roles of federal and state governments as related to LNG siting, many states still have lingering questions regarding their authority as it relates to the siting process. One major issue is the authority of a state with regard to zoning. Legal scholars agree that because the EPACT strengthens the argument that the FERC has a preemptive role under the Natural Gas Act, if this section is challenged, the EPACT would also affect the authority of state government agencies under state law to control the location of facilities. The test that states should use to determine if their authority would be preempted under a specific situation is:

If the exercise of state (or non-federal) governmental authority would “delay or prevent” construction of the facility, then it is preempted.<sup>32</sup>

In other words, if compliance with a state zoning ordinance means that a LNG facility cannot be located at a site approved by the FERC, or that the facility must be reconfigured in order to be located at that site, the FERC’s authority would presumably preempt that state zoning ordinance because it would be “inconsistent or incompatible with the FERC’s federal mandate.”<sup>33</sup>

Because the EPACT attempted to dramatically limit the role of a state in making determinations related to LNG facility siting, some experts suggest that states should take a more active role in controlling those aspects of siting under their authority. One such possibility is the option states have of exploring land-taking as a possible means of controlling at the state level, where these LNG facilities are sited within their borders.

## **2. Off-Shore Sites**

### **(a) Role of the Federal Government**

Unlike on-shore LNG facilities, siting of off-shore sites is governed by different federal statutes and thus different federal law. Permitting of LNG projects for off-shore or deep water areas falls under the jurisdiction of the Secretary of the Department of Transportation (“DOT”). This authority was established under the Deepwater Port Act of 1974, as amended by the Marine Transportation Security Act of 2002, and gives the Secretary of DOT exclusive authority<sup>34</sup> to issue licenses for the ownership, construction and operation of deepwater ports including off-shore LNG facilities.<sup>35</sup> The DOT Secretary has delegated the authority to issue and process

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<sup>31</sup> Patrick Hester, “Regulation of the Development of Natural Gas Pipelines and LNG Facilities: An Overview,” Presentation to Law Seminars International, “Electricity & Natural Gas Regulation: Fundamentals & Current Issues,” Washington, DC, March 17, 2006. For LNG project applicants that were already filed at the FERC at the time the EPACT was enacted in the late summer of 2005, states were given 30 days from the date of enactment to file such advisory reports.

<sup>32</sup> Skadden, Arps, Slate, Meagher & Flom LLP, “Analysis of the Energy Policy Act of 2005,” August 2005.

<sup>33</sup> Id.

<sup>34</sup> 33 U.S.C. §1503.

<sup>35</sup> 33 U.S.C. § 1502(9) and (13).

Deepwater Port Act licenses to the Administrator of the Maritime Administration (“MARAD”) and the U.S. Coast Guard, respectively.<sup>36</sup> Essentially, MARAD is responsible for project finance review and issuance of the actual license, while the U.S. Coast Guard is responsible for engineering, operations safety, and environmental review.<sup>37</sup>

Another distinction between on-shore and off-shore LNG siting policy is evident in the fact that proposals to site off-shore LNG facilities must make a demonstration that the facilities themselves are necessary. For example, when the DOT Secretary decides whether to issue a license for a deepwater port, the agency must make nine specific findings that “seek to protect, promote, and in some cases reconcile national priorities for energy, the environment, the economy, and freedom of navigation on the high seas.”<sup>38</sup>

### **(b) Role of the State Government**

States play a much more critical role in the permitting of off-shore LNG sites. The Deepwater Port Act provides that the Secretary of Transportation “shall not issue a license without the approval of the governor of each adjacent coastal state.”<sup>39</sup> The governor has 45 days after the last public hearing on the project to convey his/her approval or disapproval. If the governor fails to convey comments in a timely fashion, the application is considered approved by the respective state.<sup>40</sup> In this comment process, the state (through its governor) may notify the Secretary of DOT whether the project is “inconsistent with state programs relating to environmental protection” and the Secretary in turn is required to condition the license on the applicant achieving such consistency with these state programs. In other words, the state is given tremendous latitude in placing conditions on proposed off-shore LNG sites, and those conditions are given large deference in the permitting process.

## **3. Natural Gas Pipelines**

Under the federal/state framework for regulating the safety of natural gas facilities, the Natural Gas Pipeline Safety Act (“NGPSA”), as amended and combined with the Hazardous Liquid Pipeline Safety Act of 2002, specifically preempts the application of state and local safety standards to interstate natural gas pipelines.<sup>41</sup> Under the NGPSA, the Department of Transportation establishes the safety and design standards for interstate natural gas pipelines, which are overseen by that agency’s Office of Pipeline Safety within the Pipeline and Hazardous

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<sup>36</sup> 68 FR 36496 and 62 FR 11382.

<sup>37</sup> Environmental review includes making sure the project is in compliance with the National Environmental Policy Act.

<sup>38</sup> See Susan Tierney, “Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use,” June 2006, page 75. These nine findings include: (1) is the construction and operation in the national interest, (2) what is the applicant’s financial responsibility, (3) is the project in compliance with applicable laws, regulations, and licensing conditions, (4) are there any existing issues related to navigation, (5) are there any issues related to safety and use of the high seas, (6) what if any advice is there from the administrator of the EPA, (7) have all necessary consultation with the secretaries of State, Defense, and Army been undertaken, (8) has approval of the governor of the adjacent coastal state(s), and (9) is the project consistent with Coast Zone Management policies.

<sup>39</sup> *Id.*, page 74.

<sup>40</sup> 33 U.S.C. §1508(b)(1).

<sup>41</sup> 49 U.S.C.

Materials Safety Administration. The Office of Pipeline Safety may authorize a state to act as its agent to inspect interstate pipelines, but safety jurisdiction remains exclusive to the United States Department of Transportation with respect to natural gas pipelines.<sup>42</sup>

### **Recommendations**

**It is the recommendation of the Commission that Massachusetts immediately begin utilizing the authority currently vested to it by way of federal statutes, regarding the LNG permitting and siting process, through the following means:**

- (1) Continue to exercise the governor's approval/veto power pursuant to federal law for off-shore facilities proposed in the Commonwealth's territorial waters.**
- (2) Continue to utilize federally delegated review and permitting authority to evaluate each facility under (1) the Coastal Zone Management Act, (2) the Clean Air Act, and (3) the Clean Water Act. Further, the state should continue to participate in the review and permitting processes, which are often extensive and involve issues related to: the protection of water quality, habitats, protected areas; addressing coastal hazards; preservation and management of ports and harbors; ensuring public access; addressing energy needs; supporting ocean resources; and managing growth.**
- (3) Continue to facilitate and encourage the role of state and local government public safety agencies (e.g., fire departments, Department of Telecommunications and Energy and Department of Public Safety), in ensuring that safe operations are in place related to LNG terminals and the transportation of LNG cargos in harbors. These agencies should continue work together to develop the best practices and protocols and execute such plans to ensure public safety near LNG facilities.**
- (4) Continue to explore the use of state owned property located adjacent to LNG pipeline infrastructure for the siting of LNG import and storage facilities. There is currently before the State Legislature a bill, which would establish a LNG facility at the edge of Boston Harbor on Outer Brewster Island, this facility would have double the capacity of the Everett facility and would potentially enhance security in and around Boston Harbor because natural gas would be piped in under the harbor through natural gas lines onto the mainland.<sup>43</sup> The Massachusetts legislature should continue to explore legislation which proposes the use of such state owned property for potential future LNG import and storage sites, and conduct further hearings related to such proposals.**

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<sup>42</sup> Susan Tierney, "Report to the Massachusetts Special Commission Relative to Liquefied Natural Gas Facility Siting and Use," June 2006, page 76.

<sup>43</sup> City of Boston Resolution of Councilors Murphy, Feeney, Kelly, Lamattina, McDermott and Yoon, dated July 12, 2006.

**It is the further recommendation of this Commission that due to the critical importance of LNG facility siting, it is necessary to advance all legitimate legislative alternatives afforded to the Commonwealth. The Commission finds that although the EPACT does not currently vest the Commonwealth with authority sufficient to adequately protect the interests of its citizens, the Commission nevertheless recommends that such federal governing statutes be amended to provide additional authority to the states in the following ways:**

- (1) States should be permitted to develop a state-wide facility siting plan that serves as the basis for facility siting within the borders of that state. Any plan that is approved by the legislature and the governor shall be given deference by any federal regulator in reviewing a proposed facility.**
- (2) States should be given deference in their determinations related to the review of a petition for a proposed LNG import facility. Such determinations by the state should take priority over those of private developers in LNG siting disputes. The FERC shall not approve a facility that is contrary to a state's facility siting plan without the consent of the governor of that state. In accordance with this suggestion, the Commission acknowledges that states should not have the authority to bar LNG facility proposals without cause.**
- (3) States should establish a Regional Energy Facility Siting Council, ("Council"). The council should facilitate communication among states in a region, regarding the energy facility siting needs of the state and the region as a whole. The primary function of the council should be to develop and adopt a regional plan with regard to the siting of LNG facilities, and make all necessary recommendations to the FERC and other federal agencies involved in the siting process. The federal government should provide appropriate funding to each state's council for the development of such regional LNG facility siting plans.**
- (4) Given that the current permitting and siting process evaluates new LNG import facilities as they are proposed, treating each facility in isolation, states should continue to advocate for the adoption by the FERC of a regional approach to LNG siting, giving deference to the siting plans developed by regional councils.**

The Special Commission Relative to  
Liquefied Natural Gas  
Facility Siting and Use

Commission Member  
Supplemental Comments



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

July 27, 2006

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**Via Hand Delivery**

The Honorable Brian S. Dempsey, Co-Chairman  
The Honorable Joan M. Menard, Co-Chairman  
Special Commission Relative to LNG Facility Siting and Use  
State House, Rooms 216 and 473B  
Boston, MA 02133

Re: Recommendations of the LNG Commission

Dear Representative Dempsey and Senator Menard:

I have been honored to serve on behalf of Attorney General Tom Reilly as a special member of the Legislature's Commission Relative to LNG Facility Siting and Use. We commend the Legislature for creating this Commission to study the enormously complex and important issues surrounding this challenge.

While the Attorney General concurs in many of the general comments presented in the report, we offer the following comments to clarify that, although it is important to address our growing need for energy, we must do so in a manner that takes into consideration the serious potential safety concerns associated with LNG facilities.

Public Safety. Although the Report describes the LNG industry's "excellent safety record," discusses the "relatively low" risk of a terrorist attack or an accident, and notes "risks from accidental spills are small and manageable," the Commission is also aware of other concerns raised by experts such as Richard Clarke and the Sandia National Laboratories. In the wake of September 11, 2001, LNG facilities are attractive terrorism targets to those who might want to do us harm, and the consequences of a terrorist attack would be potentially devastating. For that reason, we strongly concur with the recommendation that there be a preference for siting any new facility outside any densely populated area.

Respective Roles of Federal and State Governments. While we concur that the Energy Policy Act of 2005 clarified FERC's exclusive jurisdiction for the siting of new facilities, the preemptive effect of the Act on certain aspects of the Commonwealth's authority may not be quite as clear as the report may suggest. For example, the Act contains language expressly preserving the rights of states acting under the federal Coastal Zone Management Act, the Clean Air Act, or the Clean Water Act. Under these complex, dual federal and state regulatory schemes, states retain the regulatory authority to issue requisite state permits and approvals. The line between these surviving authorities and the federal government's exclusive authority over



The Honorable Brian S. Dempsey, Co-Chairman  
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siting is by no means clear. Also, to the extent permits required under generally-applicable state laws and regulations directed at the protection of the environment, natural resources, and the public health, safety and welfare (as opposed to permits under laws or regulations directed at natural gas companies or at the siting or operation of LNG terminals) are not considered approvals or denials of an application to construct the terminal, they arguably would not be within scope of the Act's preemptive language.

Finally, the report recommends land-taking as a possible means to control where LNG facilities are sited within the Commonwealth. We have reservations about such an approach. First, such an action would appear to go to the core of a siting determination, and so may well raise preemption issues. Second, the appropriateness of taking private land for public use depends on an evaluation of the specific public use and benefits proposed as a result of the taking. Therefore, while there may be a particular situation in which this mechanism may be appropriate, it may have limited utility as a strategic approach to address siting issues generally.

Outer Brewster Island. The report includes a recommendation to explore the use of state-owned property adjacent to LNG pipeline infrastructure for LNG facilities and notes, with favor, the pending bill proposing a LNG facility on Outer Brewster Island. We believe that we should fully explore whether each proposed project satisfies the Commonwealth's needs while posing potentially less risks than other proposals. However, we believe a full discussion of this proposal must take into account the serious concerns voiced by the National Park Service and others that the land transfer required in this proposal would violate various federal laws and requirements. In addition, Article 97 of the Massachusetts Constitution raises further significant legal issues and requirements.

We also note that the existing Everett facility is wholly unrelated to the proposed LNG terminal on Outer Brewster Island. Although some predict such a linkage, the record does not support such a conclusion. While there are roughly 15 proposed LNG projects under review in northeastern United States and eastern Canada, the market will only support a handful to meet adequately the region's future energy needs. Again, each proposed site should be fully explored as to whether it would satisfy the Commonwealth's need while posing potentially less risks than other proposals.

Regulatory Framework. The report recommends amendments to federal governing statutes that would provide additional authority to states in several ways, including, for example, permitting the development of a state-wide facility siting plan to which FERC would defer and establishment of a regional siting council. Unfortunately, many of the worthwhile recommendations may prove to be unachievable since they suggest actions or plans that simply do not fit within the current regulatory framework. Thus, while laudable and worth exploring, given the time it would take to effect such changes in federal laws and regulations,

The Honorable Brian S. Dempsey, Co-Chairman  
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recommendations may be difficult actually to implement in a time frame that could assist in making the LNG siting decisions that inevitably will need to be made in the Commonwealth's immediate future.

The Attorney General strongly favors a regional approach to LNG siting issues that would allow us, as a society, to determine where we want those facilities sited, and not simply to defer to whichever private energy company shows up first. Given the weaknesses in the existing system, when the health and security of people of the Commonwealth are at risk, and when the federal government exhibits disregard for local and state opinion, the Attorney General is committed to do whatever he can to advocate strongly on their behalf.

Sincerely,

A handwritten signature in black ink, appearing to read "Alice Moore".

Alice E. Moore, Chief  
Public Protection Bureau  
Special Commission Member

## **Special Commission Relative to Liquefied Natural Gas Facility Siting and Use**

### Comments on Commission Report Chairman Frank Smizik, House Chairman of Committee on Environment, Natural Resources and Agriculture

As Chairman of the Committee on Environment, Natural Resources and Agriculture, my comments will be confined to environmental issues contained in the Commission report.

#### Overall Environmental Concerns of Liquefied Natural Gas (LNG)

Pursuant to the enabling legislation, the Commission report focuses on the siting criteria for LNG facilities. However, the report does not address any of the problems associated with Massachusetts' dependency on LNG. Although LNG is a cleaner fossil fuel than oil or coal, it still emits harmful greenhouse gases such as carbon dioxide (natural gas plants emit 30% less carbon dioxide than oil fired plants and 45% less carbon dioxide than coal fired plants). Additionally, there is a finite amount of LNG available in the world, most of which comes from distant countries. In order to curb greenhouses gas emissions and lessen our dependency on fossil fuel from foreign countries, we must shift our focus to energy efficiency, conservation and renewable energies, rather than expanding our dependence on fossil fuels. A strategy for siting new energy facilities must also consider our region's need to find alternate, cleaner and cheaper energy sources.

#### Environmental Concerns of Siting LNG Facilities

The report makes only one environmental recommendation and it is one that I support. A diverse energy portfolio, energy efficiency measures, and the development of renewable energy sources are vital to offsetting our reliance on fossil fuels.

However, the report does not contain guidelines or recommendations for what the Commonwealth, through local and state officials, should take into consideration when siting a LNG facility. I agree with the statement in the report that "site-specific characteristics of LNG projects determine their impacts on the environment and local communities," but there are still overarching environmental impacts that can and should be taken into consideration, regardless of the placement of the site. In her report to the Commission, Susan Tierney, lists nine key environmental issues (from speakers at the National LNG Forum, sponsored by the National Commission on Energy Policy, June 21, 2006) that are reviewed when siting LNG facilities:

- Impact on fisheries;
- Impact on marine habitats;
- Impact on protected species;
- Dredging-related impacts;
- Impacts in aesthetics;
- Conflicts among users of coastal and ocean waters;

- Conflicts with ocean and/or coastal management policies;
- Reduction in air emissions from power generation stations;
- Impacts associated with multiple LNG proposals in close proximity to each other.

These factors may be taken into consideration through environmental impact reviews at the state and federal levels, but they should be highlighted in this report. The recommendations in the public safety section of the Commission report clearly outline “preferences” for new LNG facilities and makes further comment that federal, state and local governments should develop plans that address safety and security of new and existing LNG facilities. This report should have similar recommendations for environmental impacts based on the factors listed above.

### Outer Brewster Island is an Inappropriate Site

I have concerns about the section of this report that contains recommendations relating to siting an LNG terminal on Outer Brewster Island. There is no analysis of any of the four LNG projects currently proposed in Massachusetts: Outer Brewster Island, Weaver’s Cove in Fall River and Neptune and Northeast Gateway off the coast of Gloucester. There are no recommendations for any of the projects except Outer Brewster. Although there should be environmental considerations for any and all proposed LNG projects in Massachusetts, I will confine my comments to Outer Brewster Island, as that project is specifically mentioned in the report.

Outer Brewster Island is a state park and national recreation area. It is part of a group of eight islands in Boston Harbor that make up Calf Bay. This area is used for commercial fishing, recreational fishing, lobstering, boating, viewing marine life and visiting Boston Light which is located on Little Brewster Island. Outer Brewster Island is home to seals, great egrets, snowy egrets, black-crowned night herons and glossy ibis. The use of Outer Brewster Island for a LNG facility would disrupt all these activities as the LNG ships that would dock at Outer Brewster Island every few days are 1200 feet long, 200 feet wide and 150 feet high. In contrast, the tankers that deliver LNG to the Everett facility are 900 feet long, 140 feet wide and 70 feet high. Calf Bay is only 1000 yards wide.

Although the public may not spend time on the island of Outer Brewster, it is part of a state park that is used extensively by citizens and tourists alike. Human beings may not live on Outer Brewster Island or the other islands in Calf Bay, but as outlined above, it is used as a recreational and commercial area and it is home to many species of wildlife. Although the report recommended continuing to examine the use of state owned property for an LNG terminal, it did not mention or consider the environmental impacts of siting an LNG facility on a tiny island in Boston Harbor.

The report incorrectly implies that if a LNG facility is built on Outer Brewster Island then there would be no need for the Distrigas plant in Everett. In turn there would no longer be tanker shipments through the harbor to the Everett plant. This idea was discredited at the hearing held by the Commission in testimony from Distrigas executives and at the

hearing before the Committee on Bonding, Capital Expenditures and State Assets on House Bill 4500.

The use of Outer Brewster Island as a LNG facility was the subject of a six hour Joint Committee on Bonding, Capital Expenditures and State Assets legislative hearing on March 8, 2006. Both proponents and opponents had ample opportunity to speak and voice their opinions. There was significant testimony in opposition to the bill (see <http://www.savetheharbor.org/downloads/hearingstatementsfinal.pdf>). No further action has been taken on the legislation. The bill is flawed in its approach to state environmental review as it allows for Article 97 land to be converted and leased for 99 years before any environmental impact report or statement is filed. The process established in sections 61 to 61H of chapter 30 of the General Laws was designed to inform a proposed project with environmental impacts. In this case the process is a “condition subsequent” to executing the lease and only requires the lessee to notify the secretary of environmental affairs of the nature of the project and any permits it intends to seek within 60 days of signing the lease. This is contrary to the MEPA process outlined in chapter 30.

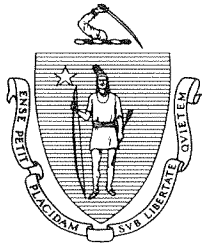
Hopefully my comments shed some light on the outstanding environmental issues that should be seriously considered by the Commonwealth when deciding where to site a LNG facility. The failure of the report to consider the environmental aspects and the merits of the other Massachusetts projects weakens the report and renders it incomplete. I therefore ask that my comments be included in the report. Without these points included, I cannot support the findings of the Commission.

I support the letter written by Senators Resor, Hedlund, Barrios, Morrissey and Hart to the Chairmen of the Commission dated July 27, 2006 requesting a meeting with the Chairmen to discuss their comments and recommendations for the report. Several of the issues raised in their letter echo the concerns that I have raised in my comments and I believe a meeting with the full Commission would be beneficial for the final report.

Some of the references made to the Sandia Report don't specifically differentiate between the zones mentioned. This is especially the case with zone 1 and the potential damage that could be done in this zone (densely populated areas).

Also, the report makes reference to double hulled ships. This is mentioned as a safety feature and in reality the double hull does not exist for safety reasons. The hulls help to keep the gas at the appropriate temperature for liquid form. In fact, the material used in between the hulls is flammable. Documentation supporting this was provided by the Department of Homeland Security and the Coast Guard.

JOHN A. LEPPER  
Assistant Minority Whip



COMMONWEALTH OF MASSACHUSETTS  
**THE GENERAL COURT**  
STATE HOUSE, BOSTON 02133-1053

# **Special Commission Relative to Liquefied Natural Gas Facility Siting and Use**

## *Statement in Dissent*

Senator Michael W. Morrissey  
Senator Robert L. Hedlund  
Senator Pamela Resor  
Senator Jack Hart  
Senator Jarrett T. Barrios

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July 28, 2006

## Introduction

The undersigned are all members of the Special Commission Relative to Liquefied Natural Gas Facility Siting and Use. We dissent from the Final Report entitled "Recommendations of the Commission," (hereafter, "the Report") which was released earlier this week by the Commission's chairmen.

The creation of the *Special Commission Relative to LNG Facility Siting and Use* was a great opportunity to take a serious and impartial look at the region's natural gas needs as well as an opportunity to review all the proposed solutions and the impacts of each. Unfortunately, we believe this report does not consider every proposal but functions to supplement special-interest legislation previously filed that would allow AES Corporation to build an LNG facility on Outer Brewster Island.

While the report does a reasonable job of outlining the current and future energy needs of the region, the report's narrow look at solutions is disappointing. The Commission's Report does not mention the proposed facility in Fall River, or either of the two off-shore projects proposed for Massachusetts Bay. Again, the only project that is specifically mentioned in the report is for an LNG facility within the Boston Harbor National Park, of which we oppose.

## Process

The original proposed deadline for the Commission to complete its consideration of issues was June 30, 2006. This deadline was extended to October 30, 2006. This report was received in its final form and while we requested a meeting of the full Commission to offer our suggestions and revisions, we were not afforded the opportunity to do so; therefore this Document in Dissent is the only opportunity to include our opinion.

## Incomplete and Insufficient Analysis and Discussion

We believe there are a number of issues to be discussed by the full Commission before a final report can be adopted, including the following:

- **No analysis of the impacts of new sites located outside of the Commonwealth**  
There is no analysis of what the impacts of the approval, construction, and operation of the more than a dozen LNG facilities proposed along the east coast of the United States and in the Canadian Maritimes would have on the availability and cost of natural gas to the citizens of the Commonwealth. Much of the testimony the Commission received at its public hearing was to the effect that these projects could help to meet future demand for gas in the commonwealth. Yet the Commission's document is silent about this important factor.



- **No analysis of impacts of proposed new sites within the Commonwealth**  
There is no discussion of any of the four LNG facilities proposals currently under consideration in the Commonwealth. While the Report does make a favorable comment (page 13) about the proposed Outer Brewster Island location, the document is silent about the Fall River proposal and the two offshore proposals

- **Exclusion of environmental considerations**  
Despite the Commission's explicit charge to consider the environmental impacts of LNG facilities, the document devotes a mere two paragraphs to this topic (pages 7 and 8), most of which is devoted to energy efficiency generally, rather than to particular environmental issues associated with LNG. The Commission received voluminous testimony and exhibits relating to such environmental impacts, but readers of this document will find no hint of them.

- **Inadequate analysis of environmental impacts**  
Only a half-page of the proposed report was dedicated to the environmental impacts from the siting of LNG facilities, but of more concern was the statement that facilities proposed in off-shore areas may impact the marine environment and the shipping, boating, and other water dependent uses. The report was astute enough to point out that such impacts would be different than environmental impacts of on-shore projects.

We believe it is clear from the testimony we have heard and read that the siting of an off-shore LNG facility would certainly impact the marine environment, as well as other water-related activities such as shipping, fishing, and lobstering. No legitimate report on the impacts of siting an LNG facility off-shore would say that such a project may impact marine environment. Not only will the environmental impacts of an offshore LNG terminal be real, they may be devastating, especially if allowed to be built in a State and nationally protected park system.

- **Failure to consider the role of the National Park Service**  
While the proposed Recommendations document gives favorable mention to the Outer Brewster Island site, the document is silent on the role of the National Park Service. This omission is curious in light of the Commission's explicit charge to consider the role of the federal government in the LNG siting process. It is hard to escape the conclusion that the Recommendation document fails to address the Park Service's role because it would be inconvenient for proponents of an Outer Brewster LNG facility to acknowledge that their favored site is located in both a state park and a national recreation area.
- **Lack of siting restrictions to protect the safety of Logan Airport**  
There are no recommendations concerning restrictions that should be imposed on LNG facilities in close proximity to Logan Airport – as the proposed Outer Brewster facility would be – despite the Commission's explicit charge to make such recommendations.

➤ **Misleading statements on public safety**

The proposed Report is misleading in its characterization of a potential Outer Brewster facility as "potentially enhanc[ing] security in and around Boston Harbor." This is coupled with a reference to the existing Everett LNG terminal. If the Commission wished to make a recommendation to close the existing Everett facility on safety or other grounds it could have done so. Instead, the Report hints at the idea, which we believe was thoroughly discredited at the public hearing on HB 4500, that building an LNG terminal at Outer Brewster would somehow decrease LNG tanker traffic through Boston Harbor to the Everett facility. It would not.

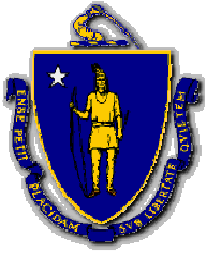
### **Conclusion**

We are submitting this Statement in Dissent because we cannot join with the Chairmen of the Commission, who submitted the final Report, without a full vote of the Commission.

We fail to see the necessity, as the report recommends, for additional hearings on H. 4500, a bill to build an LNG facility on Outer Brewster Island. This bill already received an extensive hearing (approximately six hours) earlier this year before the Joint Committee on Bonding, Capital Expenditure and State Assets, and that committee nearly unanimously decided to take no action to advance the proposal. The opposition to House Bill 4500 was clear and extensive. In fact the only document cited in the Report that refers to Outer Brewster Island is a City of Boston Resolution that never passed.

While disappointed by the Commission's Final Report, it is important to remember that more than 1/3 of the House and 1/3 of the Senate are on the record in opposition to House Bill 4500.

While this opportunity for a legitimate and impartial study is missed, we remain committed to working toward finding ways to meet our region's energy needs without siting an LNG facility in a populated area, or on protected parkland in our unique Harbor Islands national park.



## COMMONWEALTH OF MASSACHUSETTS

**Mitt Romney**  
Governor

**Kerry Healey**  
Lieutenant Governor

July 27, 2006

The Honorable Joan M. Menard, Chair  
The Honorable Brian S. Dempsey, Chair  
Special Commission Relative to Liquefied  
Natural Gas Facility Siting and Use  
State House, Boston, MA 02133

Dear Senator Menard and Representative Dempsey:

Thank you very much for providing your draft report on July 24, 2006. As you know, this was our first opportunity to review the document, and its supporting 90-page study. Since we were not involved in drafting or discussing the document, we would strongly propose that the current report be labeled an "Interim Report," and that the full Commission, including the five of us, meet in the coming weeks to develop a final report.

We strongly agree with many of the report's public-safety concerns about locating a new LNG facility in a densely populated area. However, the current draft of the document contains some factual errors that would require some time to fully identify and correct. And, we disagree with some of the report's conclusions. In particular, we believe the issue of storage of LNG – on ship, at the terminal, and remote storage served by trucking – received incomplete coverage, especially as a complete "system." There are likely multiple facility options that have the potential to meet the state's natural gas delivery and distribution needs.

If the report is issued as currently drafted, without allowing for the actions and involvement we are requesting, then we would respectfully ask for the removal of the name of any member of the administration appearing on the document, since we were not involved in drafting the report.

Sincerely Yours,

David O'Connor,  
Commissioner,  
Division of Energy Resources

David Cash,  
Director of Air Policy,  
Executive Office of Environmental Affairs

Judith Judson,  
Chairman,  
Department of Telecommunications  
and Energy

Robert Haas,  
Secretary,  
Executive Office of Public Safety

Robert Keating,  
Commissioner,  
Department of Telecommunications  
and Energy